

LOCATION: The proposed project is located in unnamed tributaries of Jennie Creek of the Tug Fork River and unnamed tributaries of Jacks Fork, Jacks Fork, unnamed tributaries of Turkey Creek and unnamed tributaries of Breeden Creek all of the West Fork of Twelvepole Creek of Twelvepole Creek of the Ohio River. The Tug Fork and Ohio Rivers are navigable water of the United States. The proposed project is located approximately 2.1 miles southwest of Breeden, in Kermit and Harvey Districts of Mingo County, West Virginia (Latitude 37° 53' 37" and Longitude 82° 21' 25") as depicted on the attached *Location Map*. The area is bordered on the west, south and east by Mingo County Road 2 and on the north by Turkey Creek of West Fork of Twelvepole Creek.

PROJECT HISTORY: The Jennie Creek Surface Mine No. 1 (200101173) and Preparation Plant (200101210) were previously authorized by Nationwide Permit 21 in January 2002. Sediment Pond No. 3 on Jennie Creek No. 1 (S-5009-99), was previously constructed. The corresponding valley fill site was cleared of timber, but the fill was not constructed. No mineral removal occurred on this permit. These Nationwide permits expired on February 11, 2002 and the projects are included within the individual permit application for this project. According to information provided, Phase I of the Jenny Creek Haulroad was previously constructed and did not impact waters of the United States.

DESCRIPTION OF THE PROPOSED WORK: The proposal consists of a combination of Contour and Highwall Mining for the Jennie Creek No. 1 and No. 3 Surface Mine areas and Mountain Top Removal for the Jennie Creek No. 2 Surface Mine area. The proposal also includes the construction of a Preparation Plant and associated Refuse Facility. The proposed project would include a total of 1574.39 acres of surface disturbance. The operation of the mine is expected to be fifteen years.

The proposed Jennie Creek Surface Mine would remove coal from the Coalburg seam and those adjacent, including the Stockton and Stockton-A, Lower Mercer, Upper Mercer, Clarion, Five-Block and all associated riders and split seams. The applicant has received the following state Surface Mining Control and Reclamation (SMCRA) and NPDES permits from the West Virginia Department of Environmental Protection:

Jennie Creek Haulroad	0-5001-99
Jennie Creek Preparation Plant Facility	0-5002-99
Jennie Creek Refuse Facility	0-5007-99
Jennie Creek No. 1 Surface Mine	S-5009-99
Jennie Creek No. 2 Surface Mine	S-5017-99
Jennie Creek No. 3 Surface Mine	S-5008-01
WV NPDES Permit WV1020072	
WV NPDES Permit WV1020145	

The proposed project would include the construction of twenty one valley fills, one refuse fill, and 17 associated sediment ponds or ponds-in-series. Temporary and permanent impacts for the proposed project total 39,731 linear feet. The information provided indicates approximately 25,945 linear feet (1.615 acres) of stream channels would be permanently impacted by the

placement of fill associated with valley fill or refuse fill construction. In addition, of the 13,786 linear feet (1.003 acre) of temporary impacts, approximately 9,109 linear feet (0.647 acre) of stream would be temporarily impacted by sediment pond embankment construction and impoundment area. The area between the sediment structures and valley fills would total approximately 4,301 linear feet (0.314-acre). Approximately 376 linear feet (0.02 acre) of stream would be impacted by haulroad construction and contour mining. Specific information related to stream impact type can be found on the attached tables.

ALTERNATIVE ANALYSIS: Coal mining is not considered to be water dependent; therefore, the applicant is required to show that other less damaging practicable alternatives are not available that would achieve the applicant's goal. No permit will be issued until our review of the alternative analysis clearly shows that upland alternatives are not available to achieve the applicant's goal.

MITIGATION PLAN: The applicant proposes to provide compensatory mitigation by restoring temporarily impacted channels on-site, creating ephemeral and intermittent stream channels within the post-mining permit area, and by enhancing physical habitat on perennial sections of Turkey Creek and Harrison Branch, tributaries of the West Fork of Twelvepole Creek.

Restoration: The mitigation plan includes the restoration of 13,857 linear feet (1.003 acre) of channel on site through sediment pond removal. The streams would be reconstructed as close as practicable to their approximate pre-mining channel configuration. In-stream structures (i.e. rootwads, vanes and boulders) and substrate would be installed creating more favorable, stable habitat.

Creation: A total of 22,217 linear feet of channel would be created using on-site drainage control structures subsequent to mining and reclamation. These channels would be reconstructed and designed using instream structures for habitat diversity and would include the establishment of vegetated buffers. The water sources would be from both ground and surface water run-off into the channels on the down-dip side of the reclaimed permit area. According to the applicant, a minimum of 18,000 linear feet would develop into intermittent stream channel and approximately 4,217 linear feet would remain ephemeral.

Enhancement: Approximately 5,500 linear feet (3.051 acres) of Turkey Creek and 1,500 linear feet (0.460 acre) of Harrison Branch would be enhanced by improving habitat, substrate, and bank deficient sections. The applicant proposes to install cross vanes, rock vanes, and random boulders to improve habitat. Boulders and rootwads would be installed along banks for stabilization. Large excess woody debris and garbage causing channel alterations and depositions would be removed.

WATER QUALITY CERTIFICATION: A Section 401 Water Quality Certification is required for this project. It is the applicant's responsibility to obtain certification from the West Virginia Department of Environmental Protection.

HISTORIC AND CULTURAL RESOURCES: The National Register of Historic Places (NRHP) has been consulted and it has been determined there are no properties currently listed on the register that are in the area affected by the project. This public notice serves as coordination with the State Historic Preservation Officer regarding historic properties. If the West Virginia Division of Culture and History (WVDCH) believe any potential effects to historic properties may result from the proposed permitting action, we request the WVDCH provide information to this office pursuant to Section 106 of the National Historic Preservation Act.

It should be acknowledged, correspondence dated April 13, 1999 from the West Virginia Division of Culture and History determined project SMA No. 0-5001-99 (FR: 99-476-MO) would have no affect on any archaeological or historical sites listed on or eligible for listing in the National Register of Historic Places. This determination was based on the submitted "Phase I Archaeological Survey for the Proposed Jennie Creek Mine Facilities, Mingo County, West Virginia" submitted by Cultural Resource Analysts, Inc.

ENDANGERED/THREATENED SPECIES REVIEW: This public notice also serves as coordination with the U. S. Fish and Wildlife Service (USFWS) regarding threatened or endangered species. The proposed project lies within the distribution range of the endangered Indiana bat (*Myotis sodalis*). This public notice serves as a request to the U.S. Fish and Wildlife Service for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the area which would be affected by the activity, pursuant to Section 7(c) of the Endangered Species Act (ESA) of 1972 (as amended).

The Huntington District has consulted the most recently available information and has determined the project is not likely to affect the continued existence of any endangered species or threatened species, or result in the destruction or adverse modification of habitat of such species which has been determined to be critical. The proposed project area was surveyed for the endangered Indiana Bat July 2005. There were no federally listed endangered bat species captured within the project area. It is requested the USFWS advise this office of their present findings or opinion.

PUBLIC INTEREST REVIEW AND COMMENT: Any person who has an interest that may be adversely affected by the issuance of a permit may request a public hearing. The request must be submitted in writing to the District Engineer on or before the expiration date of this notice and must clearly set forth the interest which may be adversely affected and the manner in which the interest may be adversely affected by the activity. This application will be reviewed in accordance with 33 CFR 320-331, the Regulatory Program of the U. S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the U. S. Environmental Protection Agency pursuant to Section 404(b)(1) of the CWA. Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit that reasonably may be expected to accrue from the proposal

must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered including the cumulative effects thereof; of those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. Written statements on these factors received in this office on or before the expiration date of this public notice will become a part of the record and will be considered in the final determination. A permit will be granted unless its issuance is found to be contrary to the public interest.

SOLICITATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. For accuracy and completeness of the administrative record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to Ms. Tammy R. Fudge, Regulatory Project Manager, South Regulatory Section, CELRH-OR-FS, U. S. Army Corps of Engineers Huntington District, 502 Eighth Street, Huntington, West Virginia 25701-2070. Please note names and addresses of those who submit comments in response to this public notice may be made publicly available. Thank you for your interest in our nation's water resources. If you have any questions concerning this public notice, please call Ms. Tammy R. Fudge of the South Regulatory Section at 304-399-5710 or tammy.r.fudge@usace.army.mil.


Ginger Mullins, Chief
Regulatory Branch

(W)

Table 11 - Jurisdictional Impacts of Preferred Alternative

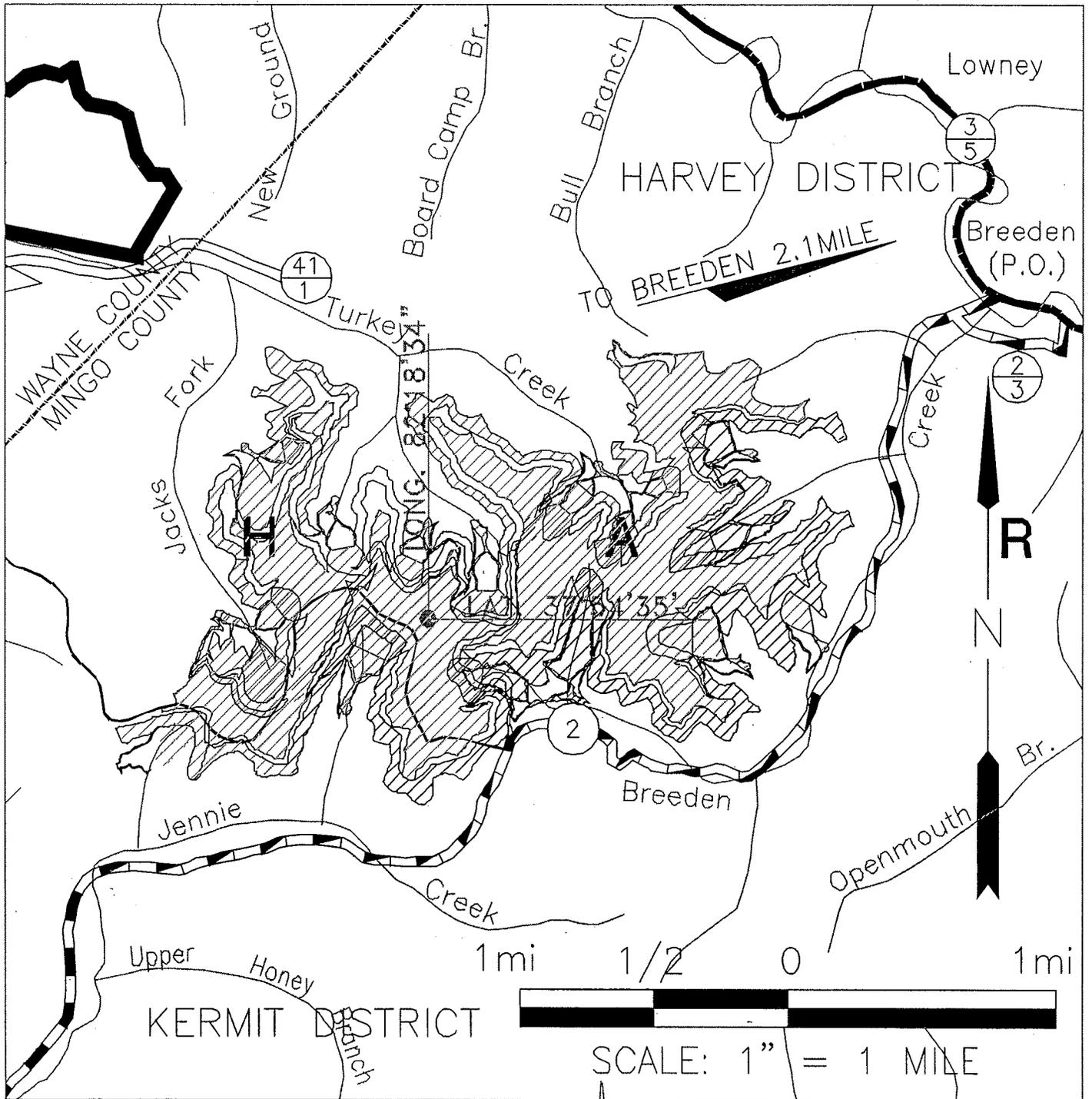
Name of Stream or Stream Section	Permanent Impact				Temporary Impact			
	Intermittent		Ephemeral		Intermittent		Ephemeral	
	Length	Acreage	Length	Acreage	Length	Acreage	Length	Acreage
Unnamed Tributary of Jack's Fork (Refuse Fill & Pond No.2)	1390'	0.079			1152'	0.091	28'	0.008
Unnamed Tributary of Jack's Fork (Fill No. 1 & Pond No. 1)	539'	0.020	130'	0.001	510'	0.021		
Unnamed Tributary of Jack's Fork (Fill No. 2, 3, 3A, 14 & Pond No. 3)	887'	0.076	1100'	0.155	1159'	0.071		
Unnamed Trib. of Jack's Fork (Fill No.4,5,5A & Pond No.4)			1433'	0.157			515'	0.069
Unnamed Tributary of Jack's Fork (Fill No.6 & Pond No.5)			490'	0.062			315'	0.040
Unnamed Trib. of Turkey Creek (Fill No.7,7A & Pond No. 6)	578'	0.033	215'	0.006	685'	0.035	25'	0.0003
Unnamed Trib. of Turkey Creek(Fill No.8, 8A & Pond No.7)	406'	0.017	30'	0.002	409'	0.018		
Unnamed Trib. of Turkey Creek (Fill 9, 9A & Pond No.8)	1207'	0.041	80'	0.001	685'	0.033	340'	0.009
Unnamed Trib. of Turkey Creek (Fill No. 10,10A,11,11A,12, 12A & Pond No. 9)	2960'	0.129	577'	0.008	1991'	0.142	75'	0.002
Unnamed Trib. of Jennie Creek (Fill No. 23 & Pond No. 10)			1157'	0.050			332'	0.018
Unnamed Trib. of Jennie Creek (Fill No. 16, 16A & Pond No. 11)	1200'	0.045	200'	0.002	686'	0.030		
Unnamed Trib. of Breeden Creek (Fill No. 17,17A,18,18A & Pond No. 12)	4474'	0.470	300'	0.023	1619'	0.233	248'	0.013
Unnamed Trib. of Breeden Creek (Fill No. 19,19A & Pond No. 13)	1517'	0.076	485'	0.011	605'	0.042	32'	0.0006
Unnamed Trib. of Breeden Creek (Fill No. 20 & Pond No. 14)			1060'	0.046			474'	0.022
Unnamed Trib. of Breeden Creek (Fill No. 21, 21A & Pond No. 15 & Pond No.15A)	1378'	0.048			965'	0.057		
Unnamed Trib. of Breeden Creek (Fill No.22,22A & Pond No. 16)	1095'	0.029	20'	0.003	478'	0.027		
Bull Creek (Fill No. 24 & Pond No. 19)	662'	0.019	375'	0.006	458'	0.018		
Cumulative Total Stream Impact	18293'	1.082	7652'	0.533	11402'	0.818	2384'	0.182
Total Permanent Stream Impact			1.62		Total Temporary Stream Impact		1.00	

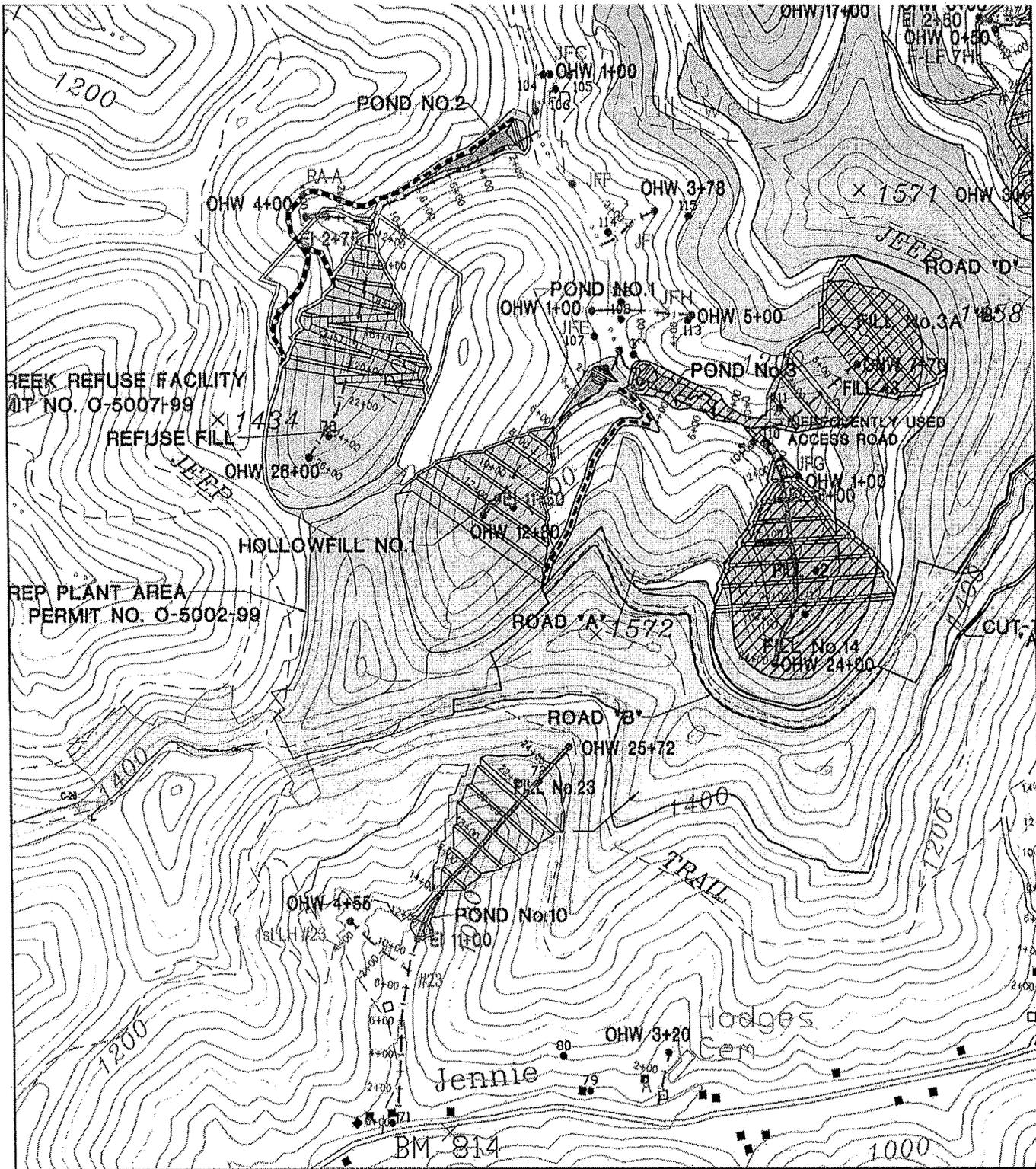
Jennie Creek Surface Mine Jurisdictional Waters Impact Summary

Temporary Impacts																					
Structure	Primary Intermittent				Secondary Intermittent				Primary Ephemeral				Secondary Ephemeral								
	Stream In Proposed Embankment		Stream In Proposed Sediment Pond		Stream Sediment Transport		Stream In Proposed Embankment		Stream In Proposed Sediment Pond		Stream In Proposed Haulroads and Contours		Stream Sediment Transport								
	(ft)	(acres)	CY	(ft)	(acres)	CY	(ft)	(acres)	CY	(ft)	(acres)	CY	(ft)	(acres)	CY						
Valley Fill 1	126	0.008	5.27	329	0.016	7.07	55	0.002	1.05												
Valley Fill 2	145	0.021	33.98	426	0.065	113.70	460	0.071	83.23												
Valley Fill 3							128	0.011	4.60												
Valley Fill 4										164	0.024	14.28	200	0.023	13.69						
Valley Fill 5										145	0.021	8.10	104	0.010	4.62						
Valley Fill 6																					
Valley Fill 7	148	0.010	3.44	482	0.042	10.24	55	0.003	1.61												
Valley Fill 8	165	0.007	1.78	205	0.006	1.59	39	0.001	0.23												
Valley Fill 9	133	0.007	2.63	367	0.03	4.87	185	0.004	1.59												
Valley Fill 10	158	0.018	14.24	213	0.024	20.50	118	0.009	8.26												
Valley Fill 11							287	0.015	4.43												
Valley Fill 12				422	0.023	14.49	793	0.041	18.28												
Valley Fill 16	177	0.006	6.01	305	0.013	10.78	204	0.009	6.72												
Valley Fill 17	164	0.033	12.07	469	0.039	34.70	650	0.047	39.66												
Valley Fill 18				277	0.018	13.63	59	0.007	1.59												
Valley Fill 19	159	0.011	3.55	322	0.034	5.99	156	0.008	1.28												
Valley Fill 20										178	0.010	1.98	149	0.006	1.32						
Valley Fill 21	336	0.012	6.31	436	0.012	6.06	193	0.013	2.88												
Valley Fill 22	189	0.011	2.36	175	0.005	1.99	114	0.006	1.70												
Valley Fill 23										127	0.007	5.16	179	0.000	1.12						
Valley Fill 24	115	0.003	0.89	343	0.012	5.57															
Valley Fill RF	123	0.014	16.28	584	0.034	47.36	445	0.041	38.42												
Totals	2,138	0.161	108.81	5,355	0.373	298.54	3,941	0.288	215.53	614	0.062	29.52	1,002	0.051	23.49	376	0.02	7.39	360	0.026	11.55

22 in 9 Fill Areas
17 Ponds

TOTAL FILLS
TOTAL PONDS





LEGEND

-  Intermittent Stream
-  Ephemeral Stream
-  Ephemeral/Intermittent Point
-  Ordinary High Water Mark

Scale:
1"=800'

May be distorted due to reproduction



Prepared by:



**ENGINEERS &
CONSULTANTS**

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JENNIE CREEK PROPERTIES

STREAM LOCATION MAP 'A'



LEGEND

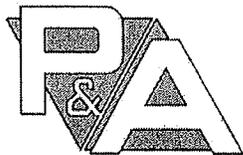
-  Intermittent Stream
-  Ephemeral Stream
-  Ephemeral/Intermittent Point
-  Ordinary High Water Mark

Scale:
1"=800'

May be distorted due to reproduction.



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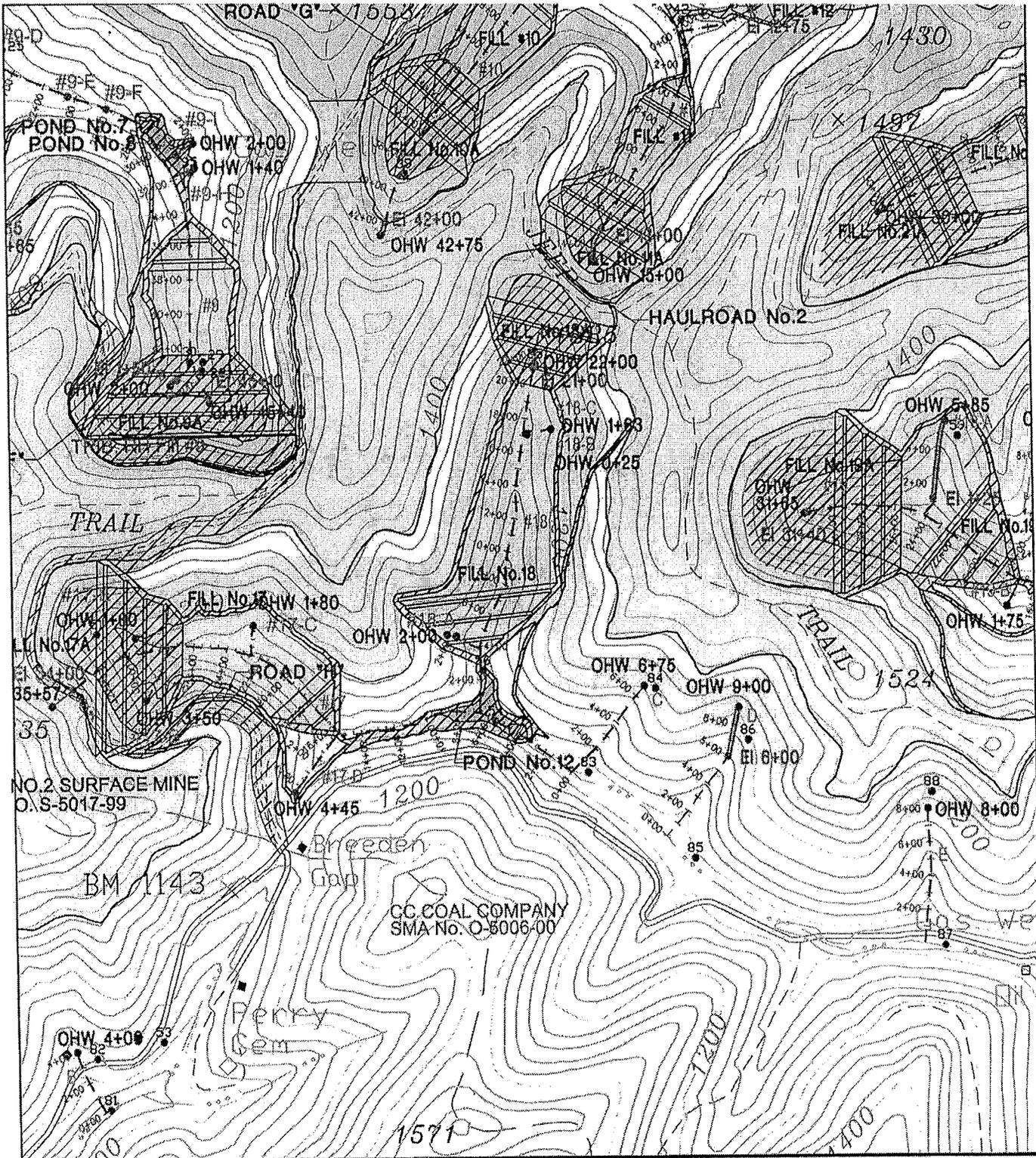
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JENNIE CREEK PROPERTIES

STREAM LOCATION MAP "B"

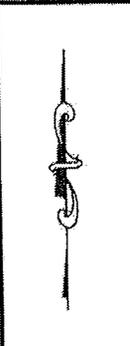


LEGEND

- Intermittent Stream
- Ephemeral Stream
- Ephemeral/Intermittent Point
- Ordinary High Water Mark

Scale:
1" = 800'

May be distorted due to reproduction



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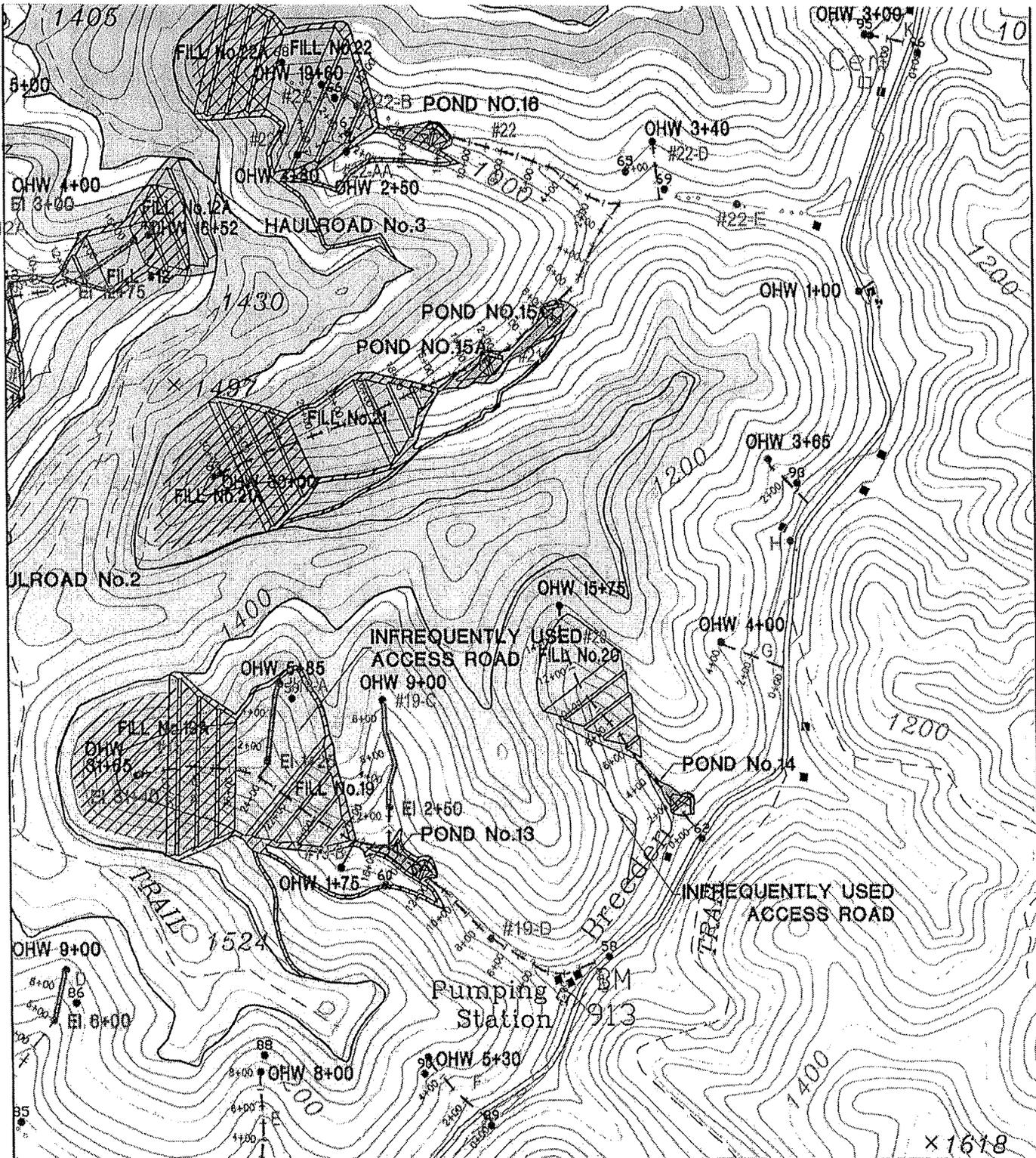
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JENNIE CREEK PROPERTIES

STREAM LOCATION MAP 'C'

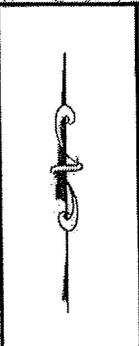


LEGEND

- Intermittent Stream
- Ephemeral Stream
- Ephemeral/Intermittent Point
- Ordinary High Water Mark

Scale:
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May be distorted due to reproduction



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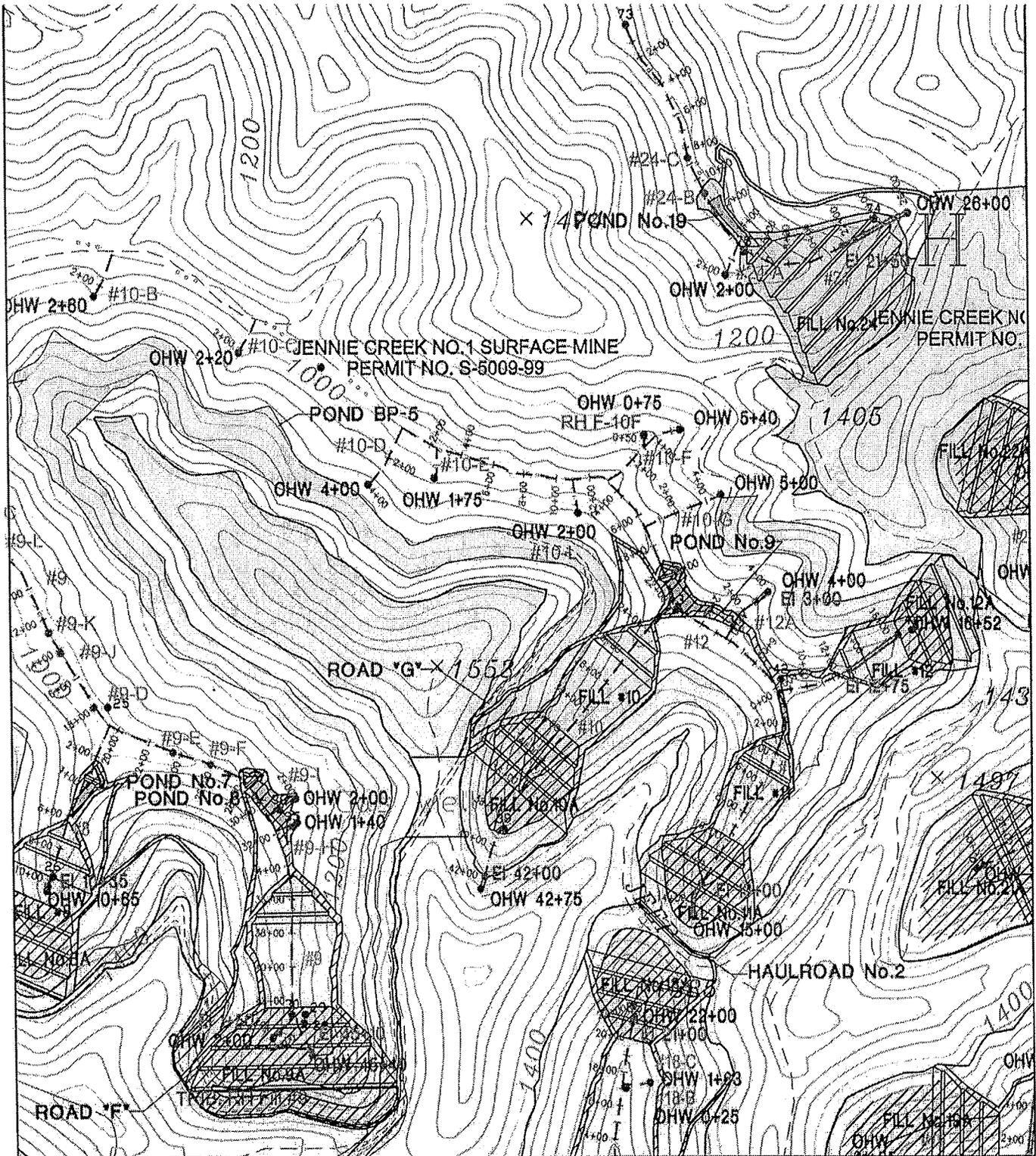
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JENNIE CREEK PROPERTIES

STREAM LOCATION MAP 'D'



LEGEND

-  Intermittent Stream
-  Ephemeral Stream
-  Ephemeral/Intermittent Point
-  Ordinary High Water Mark

Scale:
1"=800'

May be distorted due to reproduction



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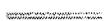
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JENNIE CREEK PROPERTIES

STREAM LOCATION MAP "E"



LEGEND

-  Intermittent Stream
-  Ephemeral Stream
-  Ephemeral/Intermittent Point
-  Ordinary High Water Mark

Scale:
1"=800'

May be distorted due to reproduction



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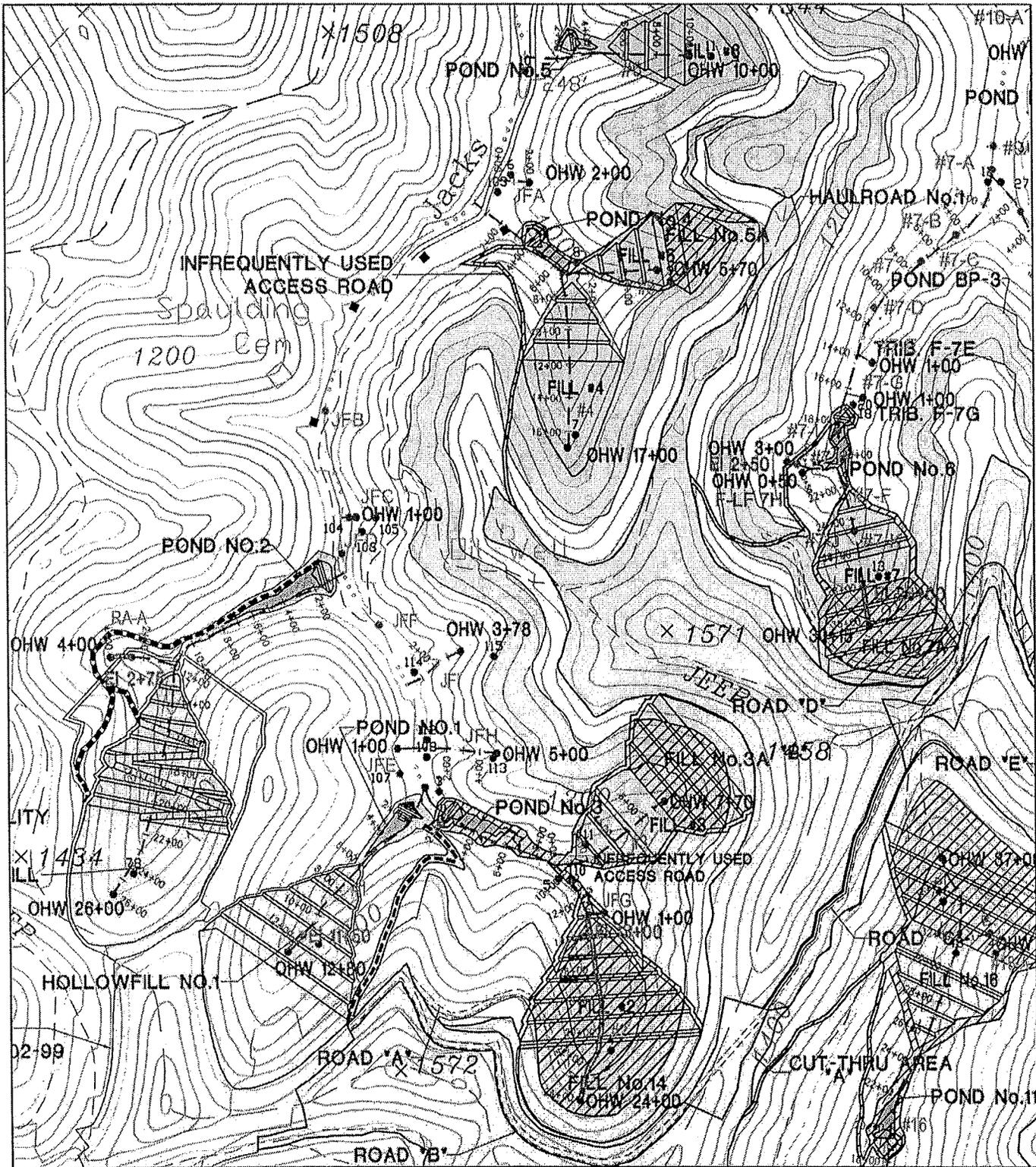
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JENNIE CREEK PROPERTIES

STREAM LOCATION MAP 'F'



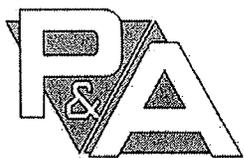
LEGEND

-  Intermittent Stream
-  Ephemeral Stream
-  Ephemeral/Intermittent Point
-  Ordinary High Water Mark

Scale:
1"=800'

May be distorted due to reproduction

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JENNIE CREEK PROPERTIES

STREAM LOCATION MAP "G"

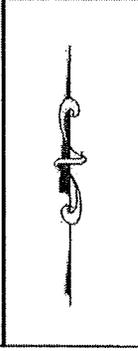


LEGEND

- Intermittent Stream
- Ephemeral Stream
- Ephemeral/Intermittent Point
- Ordinary High Water Mark

Scale:
1"=800'

May be distorted due to reproduction



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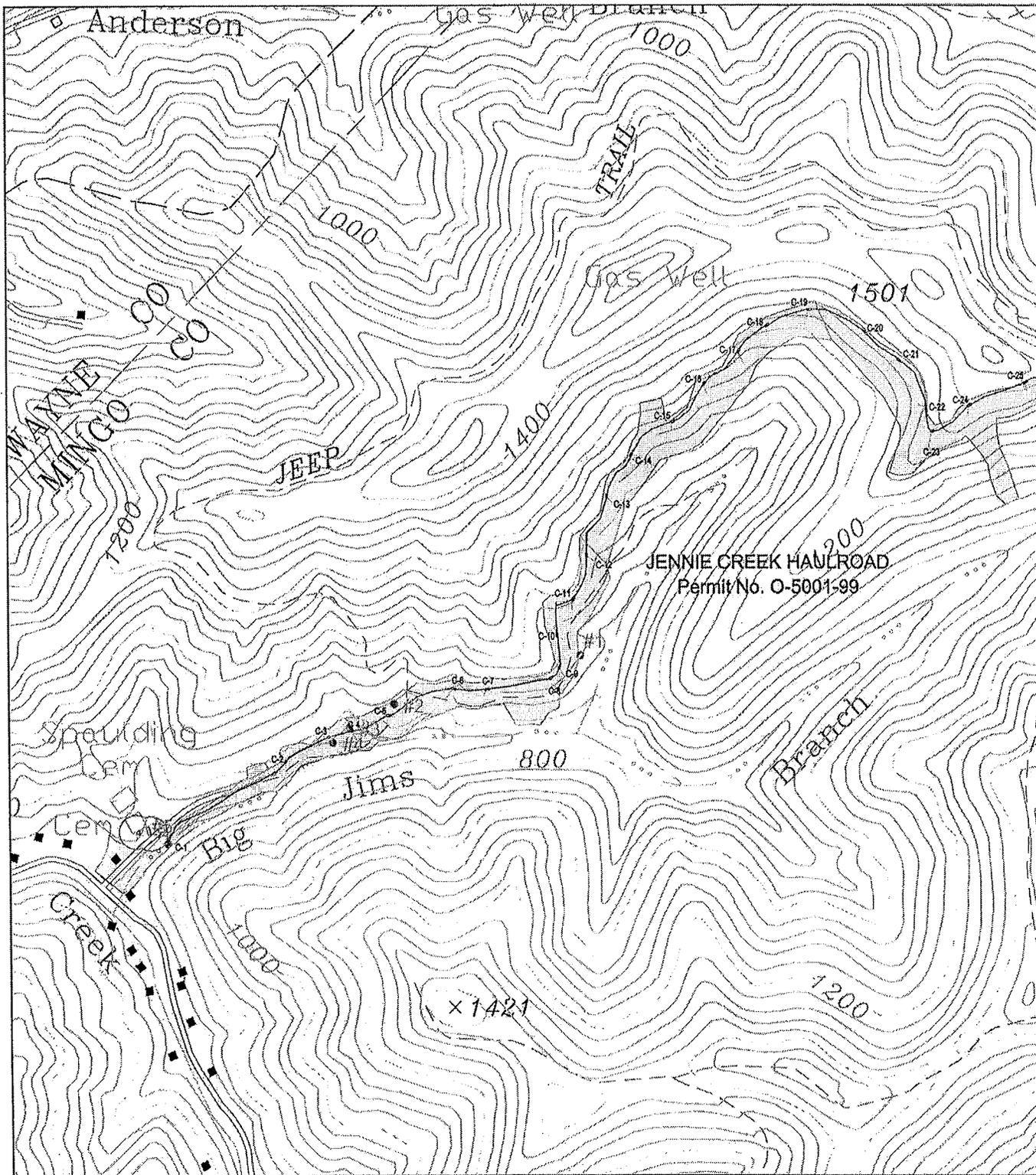
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JENNIE CREEK PROPERTIES

STREAM LOCATION MAP 'H'



LEGEND

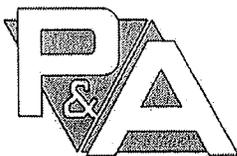
-  Intermittent Stream
-  Ephemeral Stream
-  Ephemeral/Intermittent Point
-  Ordinary High Water Mark

Scale:
1"=800'

May be distorted due to reproduction



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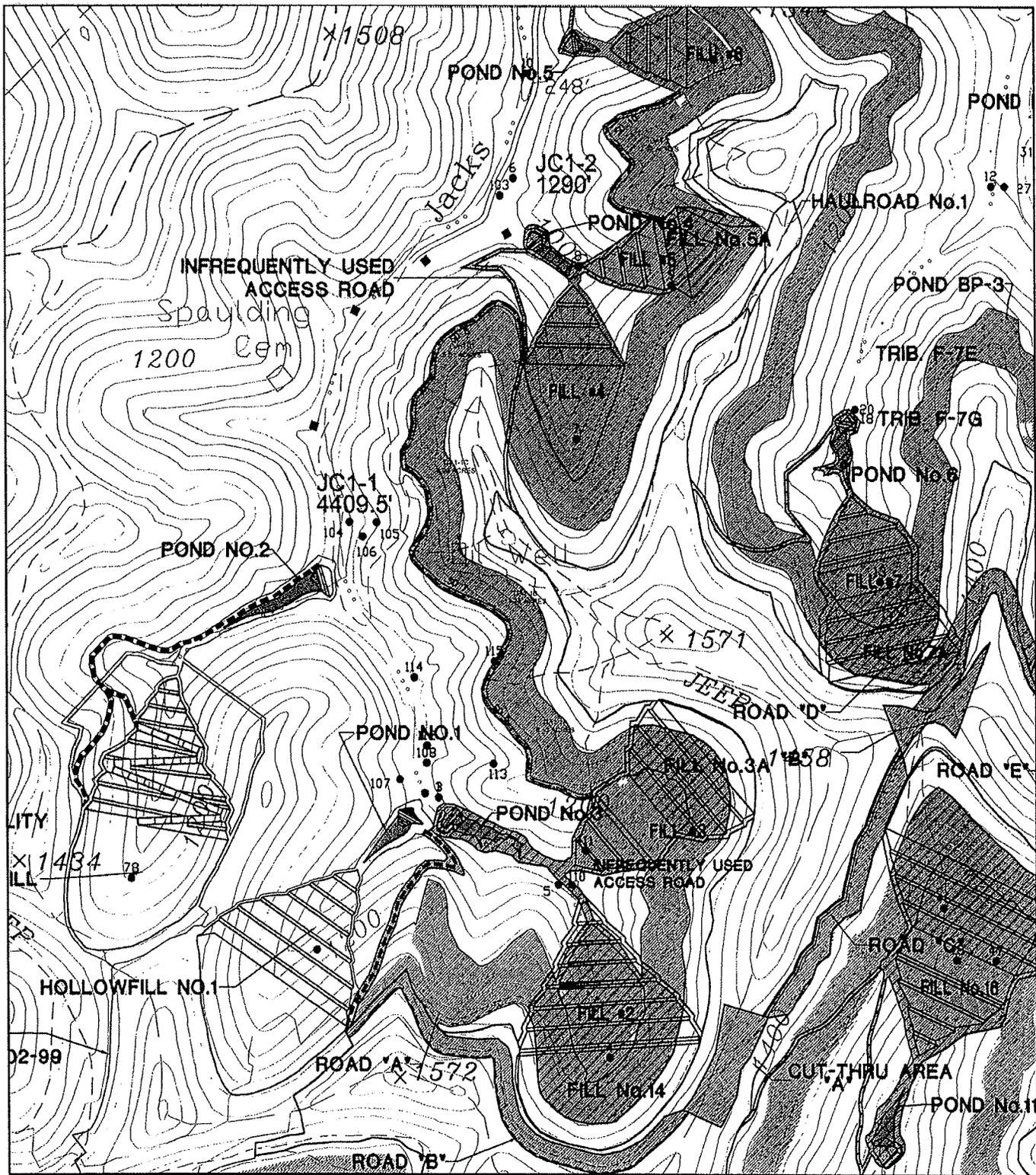
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JENNIE CREEK PROPERTIES

STREAM LOCATION MAP "1"



LEGEND

-  Flow Path
-  Drainage Areas
-  Reclaim Area

Scale:
1"=800'

May be distorted due to reproduction



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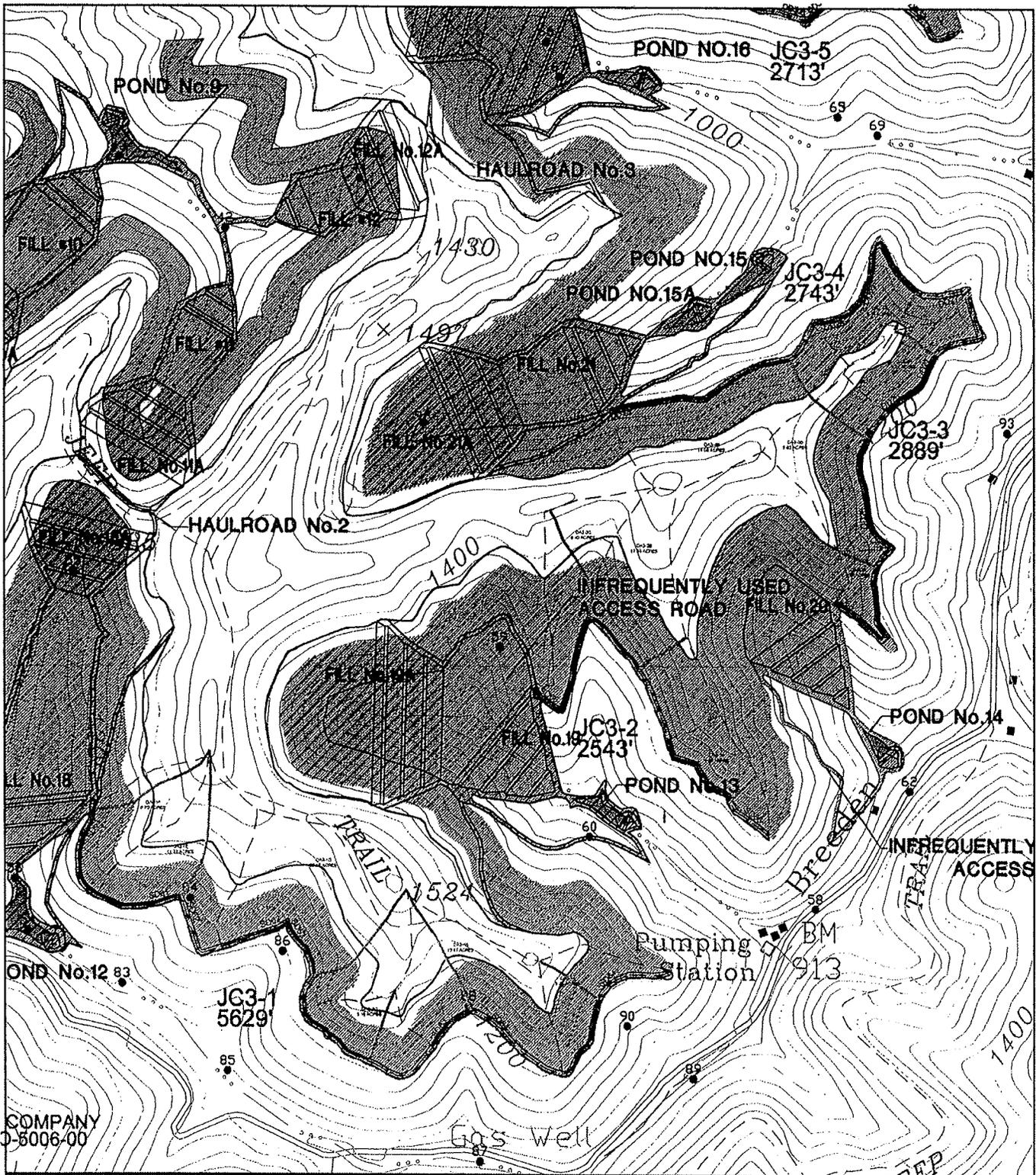
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JENNIE CREEK PROPERTIES

**ON BENCH MITIGATION
SD-6, SD-7, and SD-8**



COMPANY
D-8006-00

LEGEND

-  Flow Path
-  Drainage Areas
-  Reclaim Area

Scale:
1"=800'

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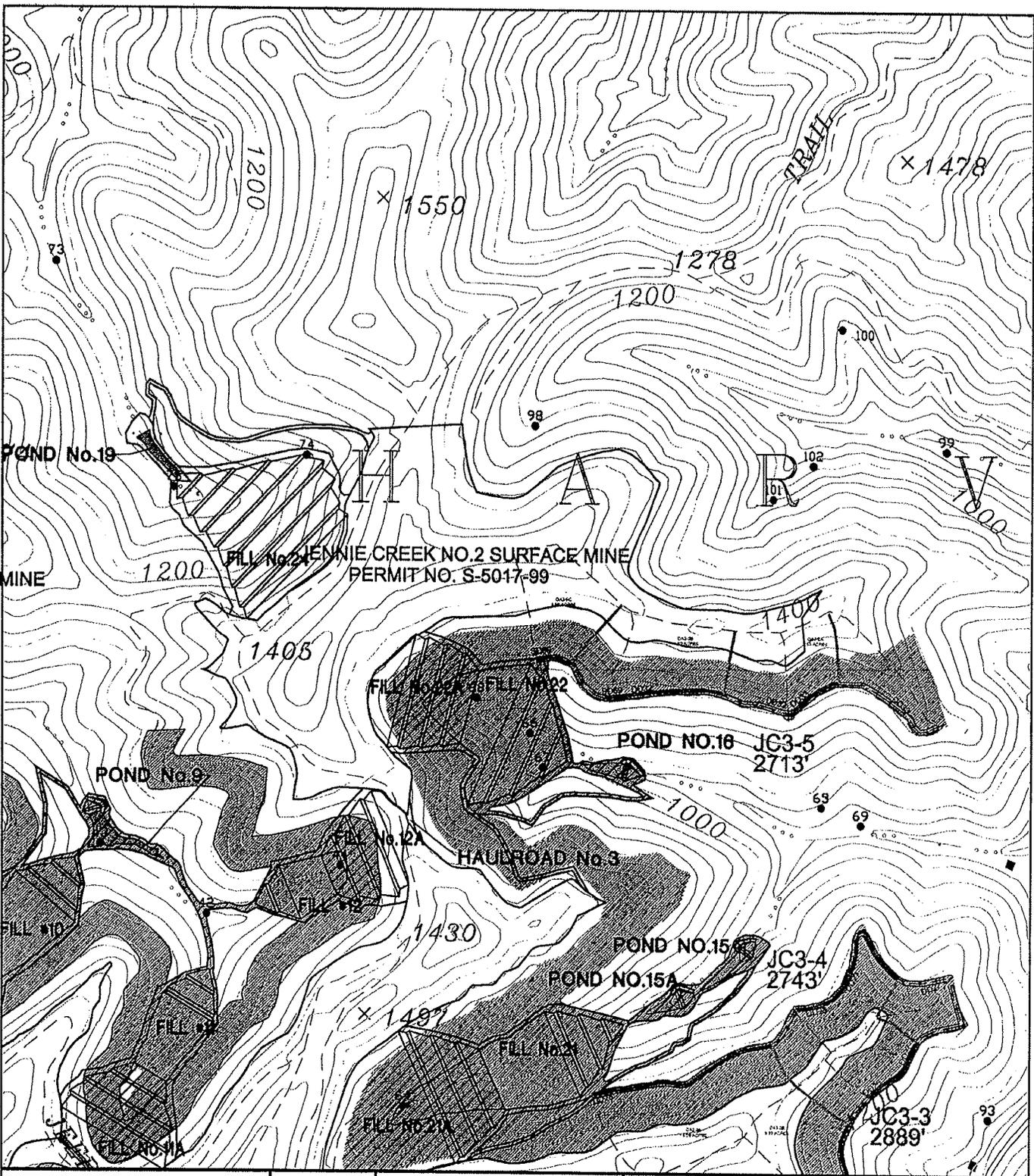
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JENNIE CREEK PROPERTIES

ON BENCH MITIGATION
SD-61, SD-62, SD-63, SD-64
SD-66, SD-68, DD-26,
DD-27, and DD-28



LEGEND

-  Flow Path
-  Drainage Areas
-  Reclaim Area

Scale:
1" = 800'

May be distorted due to reproduction



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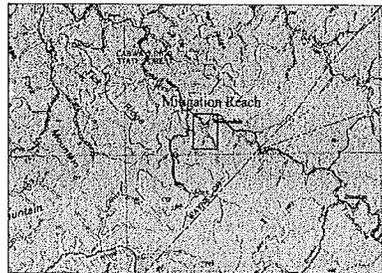
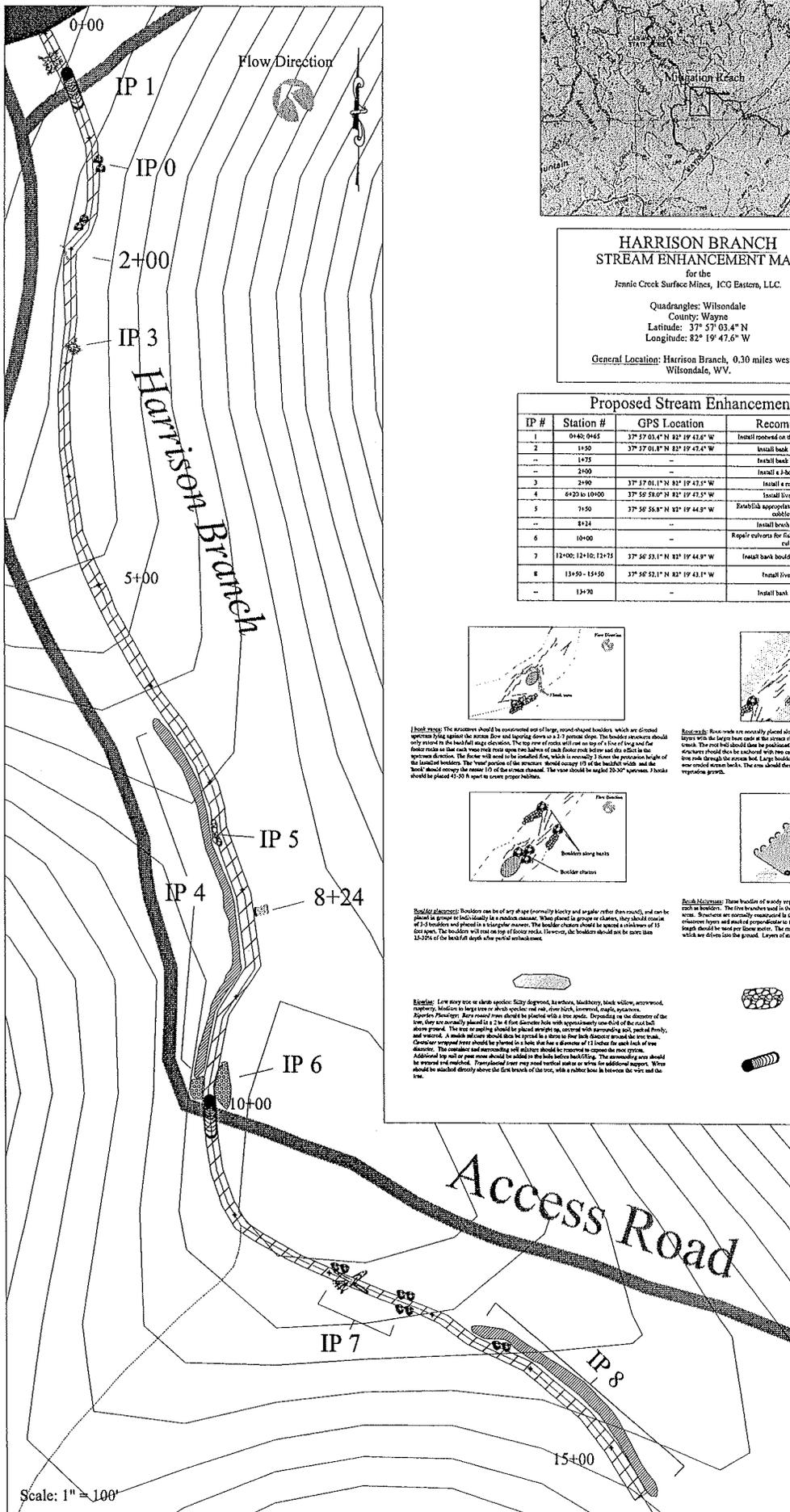
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JENNIE CREEK PROPERTIES

**ON BENCH MITIGATION
SD-69, DD-32, and DD-33**

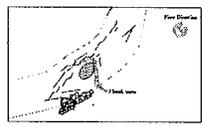


**HARRISON BRANCH
STREAM ENHANCEMENT MAP**
for the
Jennie Creek Surface Mines, ICG Eastern, LLC.

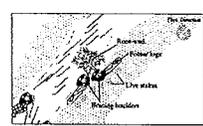
Quadrangles: Wilsondale
County: Wayne
Latitude: 37° 57' 03.4" N
Longitude: 82° 19' 47.6" W

General Location: Harrison Branch, 0.30 miles west of
Wilsondale, WV.

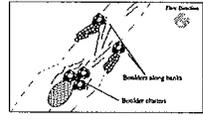
Proposed Stream Enhancements			
IP #	Station #	GPS Location	Recommendations
1	0+40; 0+65	37° 57' 03.4" N 82° 19' 47.6" W	Install rockweir on the LB, repair culvert outlet.
2	1+50	37° 57' 01.8" N 82° 19' 47.4" W	Install bank boulders on the RB.
---	1+75	---	Install bank boulders on the LB.
---	1+90	---	Install a 2-foot weir on the LB.
3	2+90	37° 57' 01.1" N 82° 19' 43.1" W	Install a rockweir on the RB.
4	6+20 to 10+00	37° 56' 58.0" N 82° 19' 43.3" W	Install live stakes on the LB.
5	7+50	37° 56' 56.8" N 82° 19' 44.9" W	Establish appropriate bankfull width by installing cobble bar to the LB.
---	8+24	---	Install bank structure on the RB.
6	10+00	---	Repair culverts for fish passage, repair banks below culvert outlet.
7	12+00; 12+10; 12+15	37° 56' 53.1" N 82° 19' 44.9" W	Install bank boulders on RB, remove LWD.
8	13+50 - 15+50	37° 56' 52.1" N 82° 19' 43.1" W	Install live stakes on the RB.
---	13+70	---	Install bank boulders on the LB.



Bank Structure: The structure should be constructed out of large, round-shaped boulders which are directed upstream facing against the stream flow and tapering down as a 1:1 percent slope. The boulder structure should only extend to the bank full stage elevation. The top row of rocks will rest on top of a 1-foot log and the boulder rocks as they cross the road rest upon two halves of a 6-inch rock and rest on a 6-inch log in the upstream direction. The force will tend to be localized down, which is normally 1 foot from the upstream height of the bankfull boulders. The "rear" portion of the structure should occupy 1/3 of the bankfull width, and the bank should occupy the center 1/3 of the stream channel. The weir should be angled 30-50° upstream. 3 boulders should be placed 40-50 ft apart to create proper boulders.



Rockweir: Rockweirs are normally placed along the main stream bed. They should be made of 4-6 round logs with the larger logs end at the stream side and upstream side. Former logs should flow to function as a check. The rockweir should be placed at an angle of 30 to 60° to the main axis of the channel. The structure should be reinforced with two 6-inch x 6-inch live stakes spaced 10 feet apart and secured by packing long logs through the stream bed. Large boulders and material should be placed around the structure and removed from the bank. The area should then be hydroseeded and mulched from the proper stream vegetation group.



Boulder Structures: Boulders can be of any size (normally boulders and angular rather than round), and can be placed in groups or individually in a random pattern. When placed in groups or clusters, they should consist of 3 boulders and placed in a triangular pattern. The boulder clusters should be spaced a minimum of 15 feet apart. The boulders will rest on top of a 6-inch rock. However, the boulders should not be more than 15-20% of the bank full depth above the bankfull crest.



Bank Structure: These boulders of woody vegetation systems are added to the bank above the protection, rock or boulders. The live stakes are placed in the bank or stream flowlines can be set from the preceding area. Structures are normally constructed in the fall for early spring. Branch structures are oriented to stream flow and must be perpendicular to the flow of water. Approximately 20 to 50 boulders of the same length should be used per linear meter. The structure is then bound with wire and wooden stake stakes, which are driven into the ground. Layers of structures should be installed with soil and water between each.



Live Stakes: Live stakes are of any size (normally boulders and angular rather than round), and can be placed in groups or individually in a random pattern. When placed in groups or clusters, they should consist of 3 boulders and placed in a triangular pattern. The boulder clusters should be spaced a minimum of 15 feet apart. The boulders will rest on top of a 6-inch rock. However, the boulders should not be more than 15-20% of the bank full depth above the bankfull crest.



Cobble material



Culvert

Scale: 1" = 100'

